

REMARKS/ARGUMENTS

Claims 2, 18, 19, and 23-25 are currently pending and stand rejected. Claims 1, 3-17, 20-22, and 26-44 are canceled. Claims 2, 18, 23, and 24 are amended. No new matter has been added by this amendment. In view of the foregoing claim amendments and the following remarks, all pending claims are believed to be in condition for allowance. Entry of the amendment is respectfully requested.

Traverse of Restriction Requirement

Applicants hereby cancel the non-elected claims with traverse as required in the Final Office Action. However, Applicants expressly reserve the right to petition the finality of the restriction requirement under 37 CFR 1.144.

Rejections under 35 U.S.C. § 102

Claims 2, 18, and 19 stand rejected under 35 U.S.C. § 102(b) as being anticipated by Morser et al., WO 1999/64608 (hereinafter “Morser”). Applicant’s respectfully traverse the above rejections for the following reasons.

As an initial matter, Claims 2 and 18 are amended to incorporate a selection step (b), and to replace the term “thought to comprise” with the term “containing”. Support for the selecting step (b) is found throughout the application as filed, for example, at paragraph [0015] of Pub. No. 2008/0199437. Claim 2 is further amended to recite “wherein the polynucleotide probe ~~comprises~~ consists of a sequence”.

Morser does not disclose a method of selecting a dopaminergic neuron proliferative progenitor cell. The present application defines the term “selected” to include both detecting the presence of cells expressing markers in a sample, and subsequently separating or isolating those progenitor cells after detecting their presence (see paragraph [0091]). Accordingly, because Morser does not teach or suggest the methods of Claims 2 and 18, removal of the above ground of rejection is respectfully requested.

Obviousness Type Double Patenting Rejection


Claims 2, 18, 19 and 23-25 are provisionally rejected on the ground of nonstatutory obviousness-type double patenting as being unpatentable over Claims 1 and 2 of co-pending Application No. 12/110,111 (now U.S. Patent No. 7,807,371). In order to facilitate allowance of the instant application, a terminal disclaimer is submitted herewith disclaiming the terminal portion of the term of a patent granted on the instant application over U.S. Patent No. 7,807,371. Applicants note that the filing of a terminal disclaimer to obviate a rejection based on non-statutory double patenting is not an admission of the propriety of the rejection. *See*, MPEP §804.02. Withdrawal of the rejection is requested.

CONCLUSION

In view of the foregoing, Applicants believe all claims now pending in this Application are in condition for allowance. The issuance of a formal Notice of Allowance at an early date is respectfully requested.

If the Examiner believes a telephone conference would expedite prosecution of this application, please telephone the undersigned at 415-576-0200.

Respectfully submitted,


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